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Eighth session
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Item 3 of the provisional agenda

# CONSIDERATION OF THE POSSIBLE REVIEW OF THE INTERNATIONAL CONVENTION FOR THE UNIFICATION OF CERTAIN RULES RELATING TO THE ARREST OF SEA-GOING SHIPS, 1952

Note by the secretariat of UNCTAD

Submission by the International Association of Ports and Harbors (IAPH) */

The attached text has been submitted by the International Association of Ports and Harbors for consideration by the Joint Intergovernmental Group of Experts at its eighth session.

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# CONSIDERATION OF THE POSSIBLE REVIEW OF THE INTERNATIONAL CONVENTION FOR THE UNIFICATION OF CERTAIN RULES RELATING TO THE ARREST OF SEA-GOING SHIPS, 1952

## Submission by the International Association of Ports and Harbors (IAPH)

Under UNCTAD and IMO a joint intergovernmental group of experts is responsible for the preparation of the revision of the International Convention of 10 May 1952 on the Arrest of Sea-Going Ships. Because port authorities could be directly impacted by the Conventions it is desirable that their positions be made known and dealt with in the Convention.

The effective arrest of a sea-going ship cannot occur, within the required conditions of safety and restraint, except within a port. The arrest of a ship may be initiated by a port authority with a view to covering certain outstanding claims against her or initiated by a third party for the same purpose. Regardless of the party initiating the process the arrest of a ship raises difficulties of various kinds, (commercial, safety, financial .....), which require that they be taken into consideration.

IAPH reserves the right to develop its position during future sessions of the joint intergovernmental group of experts and then during the future Diplomatic Conference.

At this early stage it is proposed that the following points be highlighted:

- in all ports, large or small (such as those of the developing countries), the extended stay (and for an undetermined period), of an arrested ship, causes serious commercial hindrances to the port authority, to other users, even when such hindrances can be reduced by the transfer of the ship to a waiting berth;

- the safety of the arrested ship and her cargo, her watch and her environment, impose safety, surveillance and maintenance measures undertaken in the general interest of all the parties involved;

- frequently by substitution in the stead of defaulting parties, these measures are undertaken by the port authority.

The effects of a judgement on the arrest of a ship, which seemingly should not concern anybody but the debtor and the claimer, nevertheless, in fact, impact on the port which is the review of that arrest. It would therefore be appropriate that the Convention stipulates:

- the convocation of the port authority to the debates prior to the decision to arrest the ship, with a view toward co-ordinating the effectuation of the arrest;

- the payment by the party instigating the arrest (or the shipowner or charterer), of an appropriate deposit to the port authority, to cover the costs and expenses caused by the stay of the arrested ship;

- such a provision could be renewable and the accounts settled before release of the ship at the end of the arrest.

It is requested that the Board of Directors approve the positions set forth above to be taken by the IAPH in future diplomatic conferences regarding the revision of the International Conventions on Arrest of Sea-Going Ships.

**Note by the Tokyo Secretariat:** This position paper was submitted to the Board and Exco Joint Meeting held on 16 June 1995, at Seattle and duly approved.

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